

Amendment and Response  
Applicants: MacDonald et al.  
Serial No. 09/904,038

Attorney Docket: KEY1025US

### REMARKS

Claims 13 and 35 have been canceled without prejudice above. Claims 1, 4, 6, 10, 14, 16, 19, 22, 29, 33, 36, and 37 have been amended. The amendments to the claims add no new matter. Support for the amendments to the claims may be found generally throughout the specification and the drawings.

Claims 1 to 12, 14 to 34, 36, and 37 will be pending after entry of the above amendments.

For the convenience of the Examiner, Applicants' remarks herein are set forth under appropriate subheadings.

#### Claim objections

Claim 35 was objected to because of the recited sub-combination feature.

Claim 35 has been canceled without prejudice above. Accordingly, this objection is rendered moot.

#### Claim rejections under 35 U.S.C. § 102

The Examiner rejected claims 13 and 35 under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,488,448 (Blomquist et al.).

Claims 13 and 35 have been canceled without prejudice above, and accordingly this rejection is rendered moot.

The Examiner rejected claims 13 and 35 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,984,589 (Ciccarello).

Claims 13 and 35 have been canceled without prejudice above, and accordingly this rejection is rendered moot.

Amendment and Response  
Applicants: MacDonald et al.  
Serial No. 09/904,038

Attorney Docket: KEY1025US

Claim rejections under 35 U.S.C. § 103

The Examiner rejected claims 1 to 14, 16 to 33, and 35 to 37 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,149,352 (MacDonald) in view of U.S. Patent No. 6,488,448 (Blomquist et al.).

Claims 13 and 35 have been canceled without prejudice above, and accordingly this rejection of claims 13 and 35 is rendered moot.

Applicants respectfully traverse this rejection of the claims, to the extent the rejection applies to amended claims 1, 4, 6, 14, 16, 19, 22, 29, 33, 36, and 37.

Claims 4, 6, 19, and 22 have been amended to include a third channel. Claim 10 has been amended to provide proper antecedent basis. The independent claims have been amended to recite that the first and second channels are equidistant from the first and second faces, respectively, and that the first channel in a first block aligns horizontally with the second channel in a second block when the first block's first face forms the front surface of the wall and when the second block's second face forms the front surface of the wall.

Neither MacDonald nor Blomquist et al. teach blocks with multiple channels in a lower surface that will align when the block is used in more than one orientation.

MacDonald describes a block and retaining wall system in which different widths of blocks are used and in which the front and back of a block both can be used to form the front face of a wall. MacDonald does not teach or suggest blocks having multiple channels on a lower surface which align when the orientation of the block is changed.

Blomquist et al. show a block having only one orientation and pin holes and pin receiving cavities used to interlock the blocks. The blocks of Blomquist et al. form a wall having an irregular appearance because various sizes (both thickness and length) of blocks are used, as shown in Blomquist's FIG. 1. Blomquist et al. do not teach or

Amendment and Response  
Applicants: MacDonald et al.  
Serial No. 09/904,038

Attorney Docket: KEY1025US

show a block whose orientation can be altered to obtain various appearances for the wall. There is no suggestion in Blomquist et al. of alignment of channels when the blocks are used in different orientations, as required by the claims of the present invention.

Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive to support the combination. In this case there is no teaching, suggestion or motivation to combine MacDonald and Blomquist et al. in the manner required by these claims.

Accordingly, Applicants respectfully request that the rejection of claims 1 to 12, 14, 16 to 33, 36 and 37 under 35 U.S.C. § 103(a) be withdrawn.

Allowable Subject Matter

Claims 15 and 34 were allowed.

In view of Applicants' remarks, the claims are believed to be in condition for allowance. Reconsideration, withdrawal of the rejections, and passage of the case to issue is respectfully requested.

Amendment and Response  
Applicants: MacDonald et al.  
Serial No. 09/904,038

Attorney Docket: KEY1025US

If any additional fees are due in connection with the filing of this paper, please charge the fees to our Deposit Account No. 16-2312. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our deposit account.

Respectfully submitted,

Date: 3/19/04

By Terry L. Wiles  
Customer No. 009561  
Terry L. Wiles, Esq. (29,989)  
Patrick J. O'Connell, Esq. (33,984)  
Miriam G. Simmons (34,727)  
Popovich, Wiles & O'Connell, P.A.  
650 3<sup>rd</sup> Avenue South, Suite 600  
Minneapolis, MN 55402  
Telephone: (612) 334-8989  
Representatives of Applicants